

United States  
Circuit Court of Appeals  
For the Ninth Circuit.

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MASON B. PATTEN,

Appellant,

vs.

J. CHARLES DENNIS, United States Attorney  
in and for the Western District of Washington,

Appellee.

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Transcript of Record

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Upon Appeal from the District Court of the United States  
for the Western District of Washington,  
Northern Division

FILED

NOV - 3 1942

PAUL P. O'BRIEN,  
CLERK



United States  
Circuit Court of Appeals  
For the Ninth Circuit.

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MASON B. PATTEN,

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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## NAMES AND ADDRESSES OF COUNSEL

MR. MASON B. PATTEN, Pro Se,  
107 Main Street  
Seattle, Washington

MR. J. CHARLES DENNIS,  
1012 U. S. Court House,  
Seattle, Washington  
Attorney for Appellee.

MR. GERALD D. HILE,  
1012 U. S. Court House,  
Seattle, Washington  
Attorney for Appellee.

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United States District Court in and for  
the Western District of the State of  
Washington

File No. 462

MASON B. PATTEN

vs.

J. CHARLES DENNIS, U. S. Attorney in and  
for the Western District.

## PETITION FOR SHOW CAUSE ACTION

To the Honorable Judge of the United States  
District Court in and for the state of Washington  
in Seattle, Washington. I, Mason B. Patten, a

citizen of the State of Washington, and a citizen of the United States and the Western District of the State of Washington, do petition that you shall cause to appear before this court, and show cause why a warrant should not be issued (against one William B. Smith, Vaughn Bogard, Albert Larsen for the violation of Section 51 and section 126 (criminal Codes Title 18) Codes of Federal Regulation of the United States) the district attorney of the U. S. in and for the western District of the state of Washington,

Whereas the said William B. Smith, Vaughn Bogard, Albert Larsen did on or about the 21 of December 1940 enter into a conspiracy to violate Section 51 and Section 126 (Criminal Code Title 18) U. S. Code of Federal regulations with intent to injure the right of Mason B. Patten.

Whereas the U. S. District Attorney has refused to bring action against the said William B. Smith, Vaughn Bogard, Albert E. Larsen, I Mason B. Patten do petition that this Court shall order a Warrant issued against one William B. Smith, Vaughn Bogard, Albert E. Larsen now in the Western district of the State of Washington and employee of the Federal Government on a federal Military Reservation in the [1\*] State of Washington, Puget Sound Navy Yard.

That this court shall appoint a special prosecutor to prosecute to the end this action provided

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\*Page numbering appearing at foot of page of original certified Transcript of Record.

by the constitution of the U. S. of America and Bill of rights and laws of the Congress of the United States of America.

Whereas the said William B. Smith did on or about the 21 of December 1940 approach one Vaughn Bogard and Albert Larsen and solicit help in preventing Mason B. Patten from carrying through a request for investigation of malicious practice against Mason B. Patten, with full knowledge that by making statement in writing of the said Mason B. Patten by the said Vaughn Bogard and Albert E. Larsen would place Mason B. Patten in disrepute and subject to ridicule before his superior officers. That Vaughn Bogard and Albert Larsen did make statement in writing to the Chief of Yard, Puget Sound Navy Yard in regard to said Mason B. Patten which were false and with intent to violate the provisions of Section 51 and Section 126 (Criminal code Section 19, title 18, Conspiracy to injure person in exercise of civil right: If two or more persons conspire to injure, oppress, threaten or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured by the constitution or laws of the United States, or because of his so exercising the same \* \* \* with intent to prevent or hinder his free enjoyment of any right or privilege so secured, They shall be fined not more than \$5,000 and imprisoned for not more than ten years. Shall moreover be thereafter ineligible for any office, or place of honor, or trust created by the constitution or laws of the

United States (R. S. Section 5508, Mar. 4, 1909, G. 321, P. 19, 35 Stat. 1092). Section 232 (criminal Code Section 126) Title 18. Subornation of perjury: Whoever shall procure another to commit any perjury is guilty of subornation of perjury, and [2] punishable as in Section 231 of this title prescribed. (R. S. Section 5393, Mar. 4, 1909, C. 321, Page 126, 35 Stat. 1111).

Therefore Mason B. Patten as plaintiff does pray that this court shall order that this cause shall be prosecuted in accordance with paragraphs of the Federal Codes Annotated, Section 24, amended Page 449, Section 4, Title 28 which states District Courts shall have original Jurisdiction, Subdivision 12, of all suits authorized by law to be brought by any person for the recovery of damages on account of any injury to the person or loss where the loss sustained is conjectural and uncertain and cannot be accurately determined, the jury may award damages as by competent evidence plaintiff appears to have sustained. (section 546, U. S. C. (Criminal Code, Section 340). Section 2, article 3, Judicial department, federal code, title 28, Page 167).

The judicial power shall extend to all cases in law and equity, arising under the Constitution, the laws of the United States or which shall be made under their power, to controversies between two or between citizens thereof,

Whereas the Plaintiff Mason B. Patten does complain of unlawful and irreparable damage has been

done to the person of the *said by* so doing of unlawful acts, and prays for relief from such injury sustained.

MASON B. PATTEN  
107 Main St.  
Seattle, Washington

State of Washington  
County of King—ss.

AFFIDAVIT

I, Mason B. Patten being first duly sworn upon oath, depose and say, that I am the petitioner in the above named action, that I have read the foregoing action and believe the same to be true.

.....

Subscribed and Sworn to before me this.....  
day of January, 1942,

.....

[3]

Notary Public in and for the State of Washington  
residing at .....

[Endorsed]: Filed January 22, 1942. [4]



[Title of Court and Cause.]

MOTION TO DISMISS

Comes Now the defendant in the above-entitled cause and moves that the Court dismiss the above-entitled action for the following reasons:

I.

That the Court has no jurisdiction over the subject matter.

II.

That plaintiff's pleading fails to state a claim upon which relief can be granted and particularly insofar as defendant herein is concerned.

J. CHARLES DENNIS

United States Attorney

G. D. HILE

Assistant United States  
Attorney.

[Endorsed]: Filed Mar. 20, 1942. [5]

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[Title of Court and Cause.]

MOTION TO DISMISS

CONTINUED TO APRIL 6, 1942.

Now on this 30th day of March, 1942, this cause comes on before the Court on defendant's motion to dismiss; defendant's motion re misjoinder of parties; defendant's motion to make more definite and certain. Plaintiff Mason B. Patten appears for

himself and G. D. Hile, Assistant United States Attorney appears for the defendant. Argument is had. Attorney Charles Osborn volunteers advice to plaintiff and these matters are now all continued to April 6, 1942.

Journal No. 29,  
Page 790 [6]

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[Title of District Court and Cause.]

MOTION TO DENY MOTION OF  
DEFENDANT TO DISMISS

Comes Now the Plaintiff in the above entitled action and moves the Court that Petition of defendant be denied on the following reason:

I.

That Defendant has failed to follow Procedure as set forth in Federal Rules of Civil Procedure by filing a Motion to Dismiss and Motion to make more definite and certain, by not following Procedure as outlined in Rule 12 (E) which states, "Before responding to a pleading within twenty (20) days after the service of the pleading against him, a party may move for a more definite statement.

II.

That Defendant by motion to make more definite and certain has placed himself under the jurisdiction of the Court, as stated in *Johnson & Gould v.*

Joseph Schlitz Brewing Co., D. C. Tenn. 1939, 28 F. Supp. 650. "The rule permitting demand for Bill of Particulars contemplates use by a party who is in Court. He is either in Court or out of Court. He cannot assume the position that he questions the jurisdiction of his person and yet undertake to require plaintiff to make a more particular statement of his grounds of action. [7]

### III.

That Plaintiff has sufficiently stated the claim for which relief can be granted as denial of due process of law by defendant and equal protection of law.

/s/ MASON B. PATTEN

Plaintiff

107 Main Street,  
Seattle, Washington.

[Endorsed]: Filed Mar. 30, 1942. [8]

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[Title of Court and Cause.]

### ORDER ON MOTION TO DISMISS SIGNED (Minute entry)

Now on this 6th day of April, 1942, this cause comes on before the Court for further hearing on defendant's motions to dismiss; re misjoinder of parties and to make more definite and certain. Attorney Chas. F. Osborn appears for the plaintiff and Gerald D. Hile, Asst. U. S. Attorney appears



for the defendants. Attorney Osborn advises the Court and withdraws as attorney. Plaintiff Patten consents thereto. Both sides address the Court. Letter of March 19, 1941 is filed. Letter from Dennis filed, substitution of copy may be made later, and carbon copy of letter to Dennis dated March 25, 1941 is filed, substitution may be made later. Motion to dismiss is granted on each of the two grounds set forth in motion to dismiss. Later: Written order of dismissal signed in presence of the party plaintiff and attorney for defendants. Plaintiff excepts thereto. Exception allowed.

Journal No. 29

Page 811 [9]

(Copy)

Address reply to  
The Secretary of the Navy and  
refer to initials and No.

SOSED\*4-Wm

LL/P19-1(410127)

Navy Department  
Washington

March 19, 1941

My dear Mr. Patten:

Referance is made to your letter of March 6, 1941, addressed to the Secretary of the Navy, in which you make further request for investigation of your discharge from the position of Classified laborer at the Puget Sound Navy Yard, effective

January 15, 1941, for unsatisfactory services during probation, and again allege discrimination and perjury in connection with the statements which resulted in your dismissal.

The records show that you were fully informed by the Departments letter of February 27, 1941, of the reasons for your discharge. The Department is satisfied that the Commandant was justified in the action taken and that you were given every consideration to which you were entitled under the Civil Service rules.

Therefore, the Department cannot consistently take any further action in the premises.

Sincerely yours,

CHARLES PIOZET,

Director of Personnel.

Mr. Mason B. Patten,  
105 Columbia Street,  
Seattle, Washington.

[Endorsed]: Filed April 6, 1942. [10]

Department of Justice  
United States Attorney

Terms of Court—Western District of Washington  
Seattle, Washington  
February 21, 1941

Northern Division

Seattle:

First Tuesdays May and November

Bellingham:

First Tuesdays April and October

Southern Division

Tacoma:

First Tuesdays February and July

Mr. Mason B. Patten

105 Columbia Street

Seattle, Washington

Sir:

This will acknowledge receipt of your letter of February 20th with respect to your discharge from the Puget Sound Navy Yard, Bremerton, Washington.

You are advised that from an examination of the documents submitted with the said letter, this is a matter that should be handled by the Naval authorities pursuant to the provisions of their request for you to show cause why your services should not have been discontinued.

Respectfully,

J. CHARLES DENNIS

United States Attorney

FAP:ih

[Endorsed]: Filed April 6, 1942. [11]

Seattle, Washington

March 25, 1941

U. S. District Attorney  
Western District of Washington  
Seattle, Washington

Sir:

I have not had a reply from my last two letters to your office in regard to my charges of Perjury and discrimination. Also the letter addressed to the U. S. Attorney General of the United States in care of you, what action has been or is contemplated I wish to be informed.

Yours truly,

MASON B. PATTEN.

[Endorsed]: Filed Apr. 6, 1942. [12]

United States District Court  
Western District of Washington  
Northern Division

No. 462

MASON B. PATTEN,

Plaintiff,

vs.

J. CHARLES DENNIS, United States Attorney  
in and for the Western District,  
Defendant.

ORDER SUSTAINING MOTION  
TO DISMISS

This matter having regularly come on for hearing before the above-entitled Court on the 6th day of April, 1942, and the plaintiff being present in person and the defendant being represented by G. D. Hile, Assistant United States Attorney, and the Court having heard the argument of the defendant in support of the defendant's motion to dismiss heretofore filed herein and having heard fully the said Mason B. Patten, plaintiff, in opposition to said motion to dismiss, and the Court being of the opinion, after hearing the argument aforesaid, that said motion to dismiss is well taken, It Is Therefore

Ordered, Adjudged and Decreed That the motion to dismiss in the above-entitled case be, and it is hereby sustained, and said action is hereby dis-

missed, for the reason that the Court has no jurisdiction over the subject matter, and for the further reason that plaintiff's pleading fails to state a claim upon which relief can be granted and particularly insofar as the defendant herein is concerned.

Done in Open Court this 6th day of April, 1942.

JOHN C. BOWEN

Judge.

Approved & presented

By G. D. HILE,

Asst. U. S. Atty.

Approved as to form:

MASON B. PATTEN,

Plaintiff.

[Endorsed]: Filed April 6, 1942. [13]

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[Title of District Court and Cause.]

PETITION FOR REHEARING OF  
MOTION TO DISMISS

Comes Now the plaintiff and states that an appeal should be granted plaintiff in the above entitled cause, and a new trial ordered on the following grounds.

I.

(Entire paragraph eliminated.)

4/13/42

M.B.P.

II.

That this Court has jurisdiction over subject matter, to which plaintiff takes exception.

III.

That defendant did fail to follow proper procedure in responding to plaintiff's pleading.

IV.

That plaintiff did state a claim upon which relief can be granted and particularly insofar as the defendant herein is concerned.

MASON B. PATTEN,  
Plaintiff.

[Endorsed]: Filed Apr. 9, 1942. [14]

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[Title of Court and Cause.]

HEARING ON PLAINTIFF'S PETITION  
FOR REHEARING

Now on this 13th day of April, 1942, this cause comes on before the Court for hearing on plaintiff's appeal from order sustaining motion to dismiss. Mason B. Patten appears per se and G. D. Hile, Assistant United States Attorney, appears for the Government. The title of this document is now changed on request of plaintiff to Petition for Rehearing of Motion to Dismiss. This matter is argued. Petition is denied. This cause also comes



on before the Court on motion to amend original pleadings. The proposed amendment is now granted for plaintiff's benefit nunc pro tunc as of the time immediately before the motion to dismiss was heard, this being done so that plaintiff will derive any benefit therefrom to which he may be entitled. Mr. Hile, Assistant U. S. Attorney, now again advises the plaintiff Patten that he is privileged to appear before the next Grand Jury for the purpose of presenting the matter of his grievance and that the Government will afford him every opportunity to do so.

Journal No. 29

Page 834. [15]

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[Title of District Court and Cause.]

AMENDMENT TO  
ORIGINAL PLEADING

Comes Now the plaintiff and petitions this Court to amend original pleadings by the following paragraphs:

I.

That Defendant by refusal to bring action upon information of Plaintiff became liable to Plaintiff for damages.

II.

That Plaintiff be granted relief from injury sustained by action of the above named Defendants,



whereas, unless Plaintiff is allowed recourse to prosecute said action, the injury sustained to the person of Plaintiff will be irreparable.

III.

That this Court has jurisdiction over subject matter by virtue of authority of the Constitution of the United States, and laws of the United States as passed by the Congress of the United States.

MASON B. PATTEN,  
Plaintiff.

[Endorsed]: Filed Apr. 9, 1942. [16]

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[Title of District Court and Cause.]

NOTICE OF APPEAL

Notice is hereby given that plaintiff in the above entitled cause appeals from Order of Judge, sustaining motion to dismiss as ordered, adjudged and decreed in open Court the 6th day of April, 1942.

MASON B. PATTEN,  
Plaintiff.

[Endorsed]: Filed May 26, 1942. [17]

[Title of District Court and Cause.]

DESIGNATION OF PORTIONS OF RECORD  
TO BE CONTAINED IN RECORD ON  
APPEAL

Appellant designates the following portions of records to be contained in record on appeal in the above entitled action:

1. Complaint
2. Motion to Dismiss
3. Plaintiff's motion to deny motion of defendant to dismiss
4. Order granting motion of defendant to dismiss
5. Plaintiff's motion for new trial
6. Plaintiff's amendment to original complaint
7. Copies of letters to District Attorney relative to subject
8. Notice of appeal
9. This designation
10. Designation by appellee of additional matters to be included in the record.

11. The appellant states that the points upon which the appellant intends to rely on appeal are:

1. That this court has jurisdiction of subject matter by virtue of Section 485, Judicial Code, U.S.C.A.
2. That plaintiff did state a claim upon which relief can be granted, and particularly insofar as plaintiff herein is concerned.

MASON B. PATTEN

Received a copy of the within.....  
this 9th day of June, 1942.

J. CHARLES DENNIS,  
Defendant.

[Endorsed]: Filed June 9, 1942. [18]

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[Title of District Court and Cause.]

APPELLEE'S DESIGNATION OF ADDI-  
TIONAL PORTIONS OF RECORDS AND  
PROCEEDINGS

Appellee designates the following additional por-  
tions of the records and proceedings to be contained  
in the record on appeal in the above entitled action:

1. Letter of February 21, 1941, from J. Charles  
Dennis.
2. Letter of March 19, 1941, from Charles  
Piozet, Director of Personnel.
3. Clerk's journal entry of March 30, 1942.
4. Clerk's original minute entry of April 6,  
1942.
5. Clerk's journal entry of April 13, 1942.
6. Proceedings concerning designation on  
March 30, 1942, of Charles F. Osborn, Attorney at  
Law, by the Court to advise appellant.
7. Proceedings of April 6, 1942, re statement of  
Charles F. Osborn to the Court and his withdrawal

as attorney, and statements of appellant to the Court during the proceedings of said date.

J. CHARLES DENNIS

United States Attorney.

G. D. HILE

Assistant United States  
Attorney.

[Endorsed]: Filed Jun. 19, 1942. [19]

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## NARRATIVE OF PROCEEDINGS BEFORE THE COURT REFERRED TO IN PARAGRAPHS NUMBERED 6 and 7

On March 30, 1942, the matter came on regularly before the Court on appellee's motion to dismiss the complaint.

Appellant advised the Court that he would proceed without counsel and thereupon argument on appellee's motion [20] to dismiss appellant's complaint ensued, both sides being fully heard. Appellant in the course of his argument against the motion to dismiss stated that his object in bringing the action was to attempt to obtain reinstatement in his former employment at the Bremerton Navy Yard and offered the letter of March 19, 1942, from Charles Piozet, Director of Personnel, and the letter of February 21, 1941, from J. Charles Dennis, both of which were filed by the Court with consent of appellant.

After hearing both sides fully, the Court sustained appellee's motion to dismiss on both the grounds stated in said motion.

After such ruling appellant confessed to the Court in open Court that appellant's complaint did not state a claim upon which relief could be granted and particularly insofar as appellee was concerned, but appellant did insist that the Court had erred in concluding that the Court had no jurisdiction of the subject matter.

Thereafter appellant was allowed an exception to the Court's ruling in sustaining appellee's motion to dismiss. [21]

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[Title of District Court and Cause.]

CERTIFICATE OF CLERK  
TO RECORD ON APPEAL

United States of America  
Western District of Washington—ss.

I, Judson W. Shorett, Clerk of the United States District Court for the Western District of Washington, do hereby certify that the foregoing type-written transcript of record, consisting of pages numbered from 1 to 21, inclusive, is a full, true and complete copy of so much of the record, papers and other proceedings in the above and foregoing entitled cause, as is required by designations of counsel filed and shown herein, as the same remain of record and on file in my office at Seattle, and that the same constitute the record on appeal here-

in from the Order Sustaining Motion to Dismiss entered by the court on April 6, 1942, to the United States Circuit Court of Appeals for the Ninth Circuit.

I further certify that the following is a true and correct statement of all expenses, costs, fees and charges incurred in my office by or on behalf of the appellant for making record, certificate or return to the United States Circuit Court of Appeals for the Ninth Circuit, to wit: [22]

Clerk's fees (Act Feb. 11, 1925) for making record, certificate, or return, 34 folios at 15c .....	\$ 5.10
Appeal fee .....	5.00
Certificate of Clerk to Transcript.....	.50
	<hr/>
	10.60

I hereby certify that the above amount has been paid to me by the appellant.

In Witness Whereof, I have hereunto set my hand and affixed the official seal of said District Court at Seattle, in said District, this 29th day of June, 1942.

[Seal]

JUDSON W. SHORETT,

Clerk,

United States District Court,  
Western District of Wash-  
ington,

By TRUMAN EGGER,  
Chief Deputy.

[Endorsed]: Filed Sept. 24, 1942. [23]



United States Circuit Court of Appeals  
Ninth Circuit

No. 10,265

No. 462 D.C.

MASON B. PATTEN,

Plaintiff,

vs.

J. CHARLES DENNIS, United States attorney in  
and for the Western District,

Defendant.

MOTION FOR LEAVE TO VERIFY PETI-  
TION AND FURTHER AMEND PETI-  
TION

I.

Comes now the plaintiff in the above named cause  
and petitions for leave of this court to verify and  
amend the original petition to read "Petition for  
Quo Warranto".

II.

Comes now the plaintiff and petitions for leave  
to further amend said complaint to read as fol-  
lows:

This cause is brought in Quo Warranto by virtue  
of law of Congress (March 3, 1901, C 854, section  
1540, 31 Statute 1420, which states:

"Title 28, Judicial Code, U.S.C.A. Section  
377c Institution on refusal of Attorney General  
and District Attorney. If the Attorney General

and the District Attorney shall refuse to institute a quo warranto proceeding on the request of a person ininterested, such person may apply to the court for verified petition for leave to have such writ issued, \* \* \*"

MASON B. PATTEN,  
107 Main St.,  
Seattle, Washington  
Plaintiff.

[Endorsed]: Received June 22, 1942.

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[Title of Circuit Court of Appeals and Cause.]

MOTION TO CIRCUIT COURT OF APPEALS  
FOR CLARIFICATION OF ISSUES IN-  
VOLVED

Comes now the appellant and states to the Circuit Court of appeals that the issues involved in the above entitled cause have been so disturbed that clarification is needed:

On or about January 18, 1941, Plaintiff complained to Defendant G. D. Hile of personal injury caused to his person by unlawful acts of the following persons: Mr. William B. Smith, Vaughn Bogard, Albert E. Larsen, by conspiracy and perjury and asked that defendant G. D. Hile take action against the said persons. Defendant G. D. Hile refused to bring action on the grounds that such acts were not under the jurisdiction of his



office; that upon showing to defendant G. D. Hile that such acts were directly under his office the defendant G. D. Hile stated he was not going to take any action.

Whereupon Plaintiff wrote a letter to United States District Attorney, J. Charles Dennis, co-defendant, and district attorney answered as shown in record of court proceedings. Whereupon Plaintiff again wrote to J. Charles Dennis, defendant herein, asking for action in his behalf; defendant did not answer this letter; Plaintiff addressed a letter to Attorney General in care of defendant J. Charles Dennis, defendant, which has never been sent to Attorney General. Plaintiff wrote a letter to United States District Attorney, J. Charles Dennis, in Tacoma, Washington after unsuccessful attempts to see defendant J. Charles Dennis at his Seattle office. The defendant has refused to answer such correspondence in regard to the case and every attempt to see said defendant has been averted.

Plaintiff has requested United States Attorney General for action in his behalf directly and as of date no action has been taken by said U. S. Attorney General.

The question presented in the District Court before The Honorable John C. Bowen is, was the District Attorney by refusal to bring action violating the U. S. C. A. Title 28, Judicial Code, Section 485, from whose judgment of the issues involved warrant the issue of a quo warranto writ

in favor of Plaintiff against the named persons in the original petition for show cause action.

MASON B. PATTEN,  
Appellant  
107 Main Street  
Seattle, Washington.

[Endorsed]: Recd. June 29, 1942.

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[Title of Circuit Court of Appeals and Cause.]

MOTION TO STRIKE APPELLEE'S MOTION  
TO STRIKE APPELLANT'S MOTION  
FOR LEAVE TO VERIFY PETITION  
AND FURTHER AMEND PETITION

Appellant moves the Court to deny appellee's motion to strike appellant's motion for leave to verify petition and further amend petition, for the following reasons:

1. That all papers and pleadings on file in said cause have direct bearing and show what relief is warranted to appellant.
2. That said motion was made by appellant to show good faith by willingness to put statements under oath, having the effect of making oath.
3. That this Court has jurisdiction to grant the relief requested.

MASON B. PATTEN  
107 Main Street  
Seattle, Washington

Authority:

Title 28, U.S.C.A., Section 371, Par. 2 (Judicial Code) Section 256 Title 28, U.S.C.A., Section 377, (Judicial Code) Sec. 262 (A.B.C.) Act of Congress (Mar. 3, 1901, C. 854, Sec. 1538, 31 Stat. 1419; June 25, 1936, C. 804, 49 Stat. 1921)

Minnesota & Ontario Paper Co. v. Molyneaux (C.C.A. Minn. 1934) 70F 545

Newman v. U.S.ExRel, Frizzell (1915) 35 S.Ct. 881, 238 U.S. 537, 59 L. Ed. 1446 Reversing, 1915, 43 App. D.C. 53

Rule 81, Federal Rules of Civil Procedure following 723 C. See note advisory committee under said Rule 81.

Davis v. F. W. Woolworth Co. 54 F. 2d 366.

[Endorsed]: Rec'd June 29, 1942.

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[Title of Circuit Court of Appeals and Cause.]

MOTION TO JOIN ADDITIONAL  
PARTIES AS DEFENDANT

I.

Comes now the appellant in the above named cause and joins one G. D. Hile, Assistant United States District Attorney, as co-defendant with the above named defendant J. Charles Dennis, as equally responsible for this action before The Honorable Court, on the following grounds:

1. Plaintiff had supplied G. D. Hile with information concerning violation of laws of the United States, and G. D. Hile urged Plaintiff to take said case into the State Court with full knowledge that the State Court had no jurisdiction of the subject matter.

MASON B. PATTEN

107 Main St.,  
Seattle, Washington,  
Plaintiff.

[Endorsed]: Received June 29, 1942.

---

[Title of Circuit Court of Appeals and Cause.]

MOTION TO ORDER DEFENDANTS TO PRO-  
DUCE IN THIS COURT FILE OF THIS  
CASE IN THEIR POSSESSION

I.

Comes now the appellant in the above named cause and makes motion that this Court shall order the above named defendants to produce in this Court the following designated papers and file in their possession:

(1) Copies of letters given to Defendant G. D. Hile from U. S. Navy Yard, Bremerton, Washington, relative to charges against Plaintiff.

(2) Copies of letters addressed to J. Charles Dennis, District Attorney, from Plaintiff, and answers to Plaintiff.

(3) Original letter addressed to U. S. Attorney General in care of J. Charles Dennis, District Attorney, Seattle, Washington.

(4) Letter addressed to Foreman of U. S. Grand Jury, Seattle, Washington, Registered letter No. 1212, delivered to foreman on January 5, 1942.

MASON B. PATTEN,  
107 Main Street  
Seattle, Washington  
Plaintiff.

[Endorsed]: Received June 29, 1942.

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[Title of Circuit Court of Appeals and Cause.]

MOTION TO STRIKE APPELLANT'S MOTION FOR LEAVE TO VERIFY PETITION AND FURTHER AMEND PETITION

Appellee moves the Court to strike appellant's motion for leave to verify petition and further amend petition for the following reasons:

1. That none of the pleadings or papers on file in said cause including said motion warrant the relief requested.

2. That said motion is frivolous.

3. That this Court has no jurisdiction to grant said motion.

J. CHARLES DENNIS

United States Attorney.

G. D. HILE

Assistant United States  
Attorney.

Attorneys for Appelle.

Authority:

Title 28, U.S.C.A., Sec. 377a, b, c.

[Endorsed]: Received Jul. 3, 1942.

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[Endorsed]: No. 10265. United States Circuit Court of Appeals for the Ninth Circuit. Mason B. Patten, Appellant, vs. J. Charles Dennis, United States Attorney in and for the Western District of Washington, Appellee. Transcript of Record. Upon Appeal from the District Court of the United States for the Western District of Washington, Northern Division.

Filed September 24, 1942.

PAUL P. O'BRIEN,

Clerk of the United States Circuit Court of Appeals  
for the Ninth Circuit.



In the United States Circuit Court of Appeals  
for the Ninth District

No. 10265

MASON B. PATTEN,

Appellant,

vs.

J. CHARLES DENNIS, United States Attorney  
in and for the Western District,

Appellee.

STATEMENT OF POINTS AND DESIGNA-  
TION OF PARTS OF RECORD TO BE  
PRINTED

Comes now the appellant in the above entitled cause and files the following statement of points relied upon by appellant for reversal of judgment entered in the said cause by district judge of United States District Court at Seattle, Washington in and for the Western District, Northern Division of the State of Washington, on April 6, 1942, and a designation of parts of record which appellant thinks necessary for the consideration of points relied upon for reversal of judgment.

1. That defendant failed to respond to pleadings in accordance with federal rules of procedure.

2. That the District Court has jurisdiction of the subject matter.

3. That appellant did state a claim upon which relief can be granted, and particularly insofar as the defendant herein is concerned.

## Designation of Parts of Record to Be Printed

1. Motion for leave to verify petition and further amend petition.
2. Motion to join additional parties as defendants.
3. Motion to order defendants to produce in this Court file of this case in their possession.
4. From certified record from District Court Clerk of the above entitled cause, the following:
  1. Complaint.
  2. Motion to Dismiss by defendant.
  3. Plaintiff's motion to deny motion of defendant to dismiss.
  4. Order granting motion of defendant to dismiss.
  5. Plaintiff's motion for rehearing of motion to dismiss.
  6. Copies of letters to District Attorney relative to subject.
  7. Designation by Appellee (3) Clerk's original minute entry of April 6, 1942.
  8. Designation by appellee Clerk's journal entry of April 13, 1942.
  9. Defendant's narrative of proceedings before the Court, lines 3 and 4, page 1; line 31, page 1, to end of page 2.
  10. Letter of February 21, 1941 from J. Charles Dennis.
  11. Motion for clarification of issues involved to Circuit Court of Appeals.



12. Defendant's motion to strike appellant's motion for leave to verify and further amend petition.

13. Motion to strike appellee's motion to strike appellant's motion for leave to verify and further amend petition.

14. This designation.

15. Additional designation by Appellee.

MASON B. PATTEN,  
Appellant.

Received a copy of the within Statement etc. this  
2 day of Oct. 1942.

J. CHARLES DENNIS,  
Appellee.

[Endorsed]: Filed Oct. 3, 1942.

